

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the Application of:

Uwe Sydon et al.

Serial No. 09/754,905

Group Art Unit: 2473

Confirmation No. 3947

Examiner: Steven H.D. Nguyen

Filed: January 4, 2001

Appeal No. 2009-005404

For: CORDLESS COMMUNICATION SYSTEM PROVIDING OPTIMUM SPECTRAL USAGE
FOR WIRELESS NETWORKS

REQUEST FOR REHEARING

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Decision on Appeal mailed September 7, 2010, and having a period to request reconsideration set to expire on November 7, 2010.

Rejection under 35 U.S.C. § 102(b)

The rejection of claims 1-3, 6-10, 28 and 29 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 5,903,618 to Miyake et al. was affirmed by the Decision on Appeal mailed September 7, 2010. In affirming the rejection, the Board of Patent Appeals and Interferences held that claim 1 "is silent as to synchronization 'during direct communication'" (Decision, page 9, lines 12-13). This holding was based on the last ten words in claim 1 which recites "said second remote unit synchronizing to said first remote unit" and the rule that "[c]laims are to [be] given their broadest reasonable interpretation" (Decision, page 7, line 4, citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

While it is true that a comma precedes the last ten words in claim 1, the words preceding the comma are "said central unit assigning a dedicated communication channel for enabling direct communication between said first and second remote units" (claim 1, lines 9-10). It is submitted that a person of ordinary skill in the art would interpret the combined phrases "said

central unit assigning a dedicated communication channel for enabling direct communication between said first and second remote units, said second remote unit synchronizing to said first remote unit" (claim 1, last 3 lines) as reciting that the second remote unit synchronizes using the direct communication that has been enabled by the central unit. Therefore, it is submitted that the interpretation claim 1 as being "silent as to synchronization 'during direct communication'" is not a reasonable broad interpretation of the last 3 lines of claim 1.

Claims 2, 3, 6-10, 28 and 29 all depend directly or indirectly from claim 1. For the reasons set forth above, it is submitted that claims 1-3, 6-10, 28 and 29 are not anticipated by Miyake et al.

Rejection under 35 U.S.C. § 103(a)

The rejection of claims 11-27 and 30-34 under 35 U.S.C. § 103(a) as unpatentable over Miyake et al. in view of U.S. Patent No. 6,574,452 B1 to Morvan et al. was affirmed by the Decision on Appeal. In affirming the rejection, the Board of Patent Appeals and Interferences held that claim 11, as representative of independent claims 11, 20 and 32, was unpatentable over Miyake et al. in view of Morvan et al.

because the combination of Miyake and Morvan discloses a cordless communication system that includes remote units that are able to communicate directly with each other through an assigned dedicated communication channel, wherein the units synchronize with each other on the dedicated communication channel.

(Decision, page 11, lines 6-10). This holding was based on the Findings of Fact that column 41, lines 5-39 of Morvan et al. disclosed "first and second communication device[s], 4102 and 4103, may communicate in confidential mode, wherein device 4102 automatically switches into base station operation mode ... after an assigned communication channel is established" (Decision, page 10, line 22 to page 11, line 1) and "device 4103 starts a procedure for synchronizing itself with the 'new base station' 4102, after having performed a detachment procedure with the base station" (Decision, page 11, lines 2-4).

The reasoning set forth in the Decision on Appeal does not address the argument made in the Appeal Brief that "Morvan fails to disclose[,] teach or suggest **a central unit that assigns the dedicated radio frequency connection**" (Appeal Brief, page 9, lines 12-13, emphasis added) before "a second remote unit ... synchronizes to the first remote unit during direct communication with the first remote unit via the dedicated radio frequency connection" (Appeal Brief, page 9, lines 9-11). Instead the Decision on Appeal, as quoted at the end of the preceding paragraph, describes the conventional method which is described in the Appeal Brief as, "[w]hen a direct

connection between two of the communication devices is desired, the connection is assigned by one of the requesting devices, not the base station" (Appeal Brief, page 9, lines 15-17).

As discussed in the Appeal Brief, claim 11 recites that "a dedicated radio frequency connection [is] assigned by said central unit for enabling direct communication between said first remote unit and said second remote unit" (claim 11, lines 8-10), enabling "the second remote unit synchronizing to said first remote unit during communication with said first remote unit via the dedicated radio frequency connection" (claim 11, last 2 lines). Even if the combination of Miyake et al. and Morvan et al. discloses the limitation on the last two lines of claim 11, the Decision on Appeal failed to find that Miyake et al. and Morvan et al. disclose the preceding limitation, i.e., that a third device, specifically, a "central unit," e.g., base station 4101 in Morvan et al., assigns "a dedicated radio frequency connection ... between said first remote unit and said second remote unit."

For the above reasons, it is submitted that claim 11, as well as claims 12-19, 30 and 31 which depend therefrom, patentably distinguish over Miyake et al. in view of Morvan et al.

Claim 20 recites "initiating a direct connection between the first remote unit and the second remote unit via a dedicated communication channel assigned to the first remote unit and the second remote unit by the central unit" (claim 20, lines 5-7) and claim 32 recites "the central unit assigns a dedicated radio frequency connection for enabling direct communication between said first remote unit and said second remote unit" (claim 32, lines 8-10). Therefore, it is submitted that claims 20 and 32, as well as claims 21-27, 33 and 34 which depend therefrom, patentably distinguish over Miyake et al. in view of Morvan et al.

Reconsideration of the Decision on Appeal mailed September 7, 2010 in light of the arguments presented above is respectfully requested.

If there are any additional fees associated with filing of this Request for Reconsideration, please charge same to our Deposit Account No. 19-3935.

Respectfully submitted,

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